IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.441 OF 1997

The Commissioner of Income Tax
Kolhapur .. Applicant.
V/s.
Shri Vithhal SSK Ltd. Venunagar
Tal Pandhar;pur Dist Solapur .. Respondent.

Mr.A.S. Rao with Mr.Pankaj Kapoor for the applicant.
Mr.S.N. Inamdar with Mr.P. Vaidya for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 12TH APRIL, 2005.

P.C. :

1. Heard the learned counsel for the applicant. The Tribunal has referred following questions for the opinion of this Court, reading as under :

> Whether on the facts and in the circumstances of the case, the ITAT relying on the decision of Special Bench of ITAT in the case of Shri Chatrapati SSK Ltd. (198 ITR 78 - AT) was right in deleting the following additions by holding that the various funds/deposits collected by the assessee society out of the sugarcane purchase price payable to the cane growers are not trading receipts of the assessee.
>
> 1. Non-refundable deposits;
> 2. Refundable deposits;
> 3. Area development fund ;
> 4. Small savings ;
> 5. Chief Minister’s fund ;
> 6. Hutment fund ;
> 7. Cane development fund ;
> 8. Interest on N.R.D. ;
> 9. Interest on R.D. ;
> 10. Education fund (sponsored)

2. In so far as the items viz. Non-refundable

deposits, refundable deposits, Chief Minister's fund, Hutment fund, Interest on N.R.D., and Interest on R.D. are concerned, the issue is covered by the decision of the Apex Court in the case of **Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]** in favour of the assessee and against the revenue. With respect to the issue viz. Education fund (sponsored), the same is covered by the judgment of the Division Bench of this Court in the case of **Krishna SSK Ltd. V/s. CIT [229 ITR 577].**

3. So far as Area development fund and Cane Development Fund are concerned, the issue will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. (supra). As such the said issues stand remitted back to the Tribunal for consideration afresh.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)